



JTPA

Number: D97-11

Serving the People of California

DIRECTIVE

Date: November 4, 1997

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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: DEBT COLLECTION

EXECUTIVE SUMMARY

Purpose:

This Directive transmits the policy and procedures for debt collection associated with the misexpenditure of Job Training Partnership Act (JTPA) funds.

Scope:

This Directive applies to all JTPA subrecipients. The debts referenced in this Directive are the result of the misexpenditure of funds under JTPA and its regulations.

Effective Date:

This Directive is effective on release.

REFERENCES:

- JTPA Section 164
- Title 20 Code of Federal Regulations (CFR), Sections 626.5, 627.700, 627.702(f), 627.704, 627.706, and 627.708
- California Unemployment Insurance Code (CUIC) Sections 15023 and 15061
- Department of Labor (DOL) Technical Assistance and Training Series for JTPA Financial Management, 1995
- JTPA Directive D96-22: Debarment of Service Providers from Receipt of JTPA Funding

STATE-IMPOSED REQUIREMENTS:

This document contains state-imposed requirements that are printed in ***bold, italic*** type.

FILING INSTRUCTIONS:

This Directive supersedes JTPA Interim Directive 95-07, dated June 8, 1995. Retain this Directive until further notice.

BACKGROUND:

The JTPA Section 164(e)(1) requires the repayment of misexpended funds received under the Act. The CFR, Section 627.702(f) and the CUIIC Section 15023 stipulate that local governments comprising the Service Delivery Areas (SDA) are liable for funds not expended in accordance with the Act and its regulations.

POLICY AND PROCEDURES:

The following transmits federal rules and state requirements for debt collection.

Definitions:

The following definitions were developed from DOL's Financial Management Technical Assistance Guide (TAG):

Final determination is the awarding agency's decision to allow or disallow questioned costs and resolve any nonmonetary findings.

Final debt is the amount owed based on the awarding agency's final determination if an appeal is not filed, or the decision issued in response to an appeal. Included in final debts are funds due from, but not limited to, incidents of fraud, malfeasance, misapplication of funds or other serious violations or illegal acts.

Policy:

The SDAs are responsible for their subrecipient audit resolution and aggressive debt collection action. At the state level, audit resolution and debt collection are the responsibility of the Employment Development Department's (EDD) Compliance Review Division (CRD).

The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be cash from nonfederal sources.

Funds collected by SDAs in settlement of these debts must be returned to CRD immediately upon their receipt. The mailing address for CRD is:

Employment Development Department
Compliance Review Division, MIC 22M
P. O. Box 826880
Sacramento, CA 94280-0001

The SDAs are responsible for maintaining records which will demonstrate their actions with respect to debt collection, reinvestment, or other debt resolution actions, and which will support the appropriateness of their decisions with respect to such actions.

When the debt was not a result of fraud, malfeasance, misapplication of funds or other serious violations or illegal acts, the cash repayment of the disallowance is a credit to the title and year to which it was originally charged. The credit reduces the expenditures of the period of the cost that was refunded. If the year of allocation is still open, the SDA may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to CRD.

Procedures:

Each SDA must establish, describe, and maintain written debt collection procedures that include:

- a process for notifying subrecipients of the establishment of the debt, their appeal rights, the date that the debt will be considered delinquent, the sanctions (which include but are not limited to debarment) if the debt is not repaid, and the interest rate charged, if any;
- the requirement that three debt collection letters be sent to the subrecipient at no less than 30 calendar day intervals;
- the establishment of an outstanding debt category in the SDA's accounts receivable system;
- the SDA's standards and specifications for terminating, compromising, and litigating debts; and
- a process for maintaining a permanent record of all debt collection cases and their status.

To be relieved of liability for a subrecipient's debt, the SDA must submit a written request that EDD seek DOL agreement to forego collection action (pursuant to the provisions of the CFR, Section 627.706), to CRD. Requests must include documentation and other demonstrations of facts showing compliance with JTPA Section 164(e) and Title 20 CFR, Section 627.706. Mere statements of compliance and recitation of the criteria will not be acceptable. Examples of appropriate documentation include, but are not limited to, proof that debt collection letters were sent (i.e., returned certified mail receipts), litigation was conducted and withholding of funds was attempted. Without the prior approval of both CRD and DOL, the SDA will remain responsible for repayment of the entire debt.

Unless other arrangements have been documented and approved by CRD, and by the SDA, and (when appropriate) by the subrecipient, all JTPA debts must be paid within 30 calendar days of the date on which the debt was established

as final. When the debtor is unable to make restitution in full, an installment repayment agreement may be negotiated. Installment repayment agreements will be of short duration, from three to 12 months, with a maximum of 36 months. The length of the repayment agreement will be negotiated based on the size of the debt and the debtor's ability to pay. The CRD must approve all installment repayment agreements.

Procedures, for debarring subrecipients who fail to repay their debts, are provided in Directive D96-22, April 14, 1997.

The CRD will instruct the Fiscal Programs Division (FPD) to issue an invoice with a payment due date and the interest charge, if any, to the SDA once a final debt is established. The FPD will issue the invoice and two additional invoices to the SDA at 30 calendar day intervals, when payment has not been received or a satisfactory alternative repayment plan has not been negotiated. If payment is not received within 90 calendar days after the third invoice, the FPD will notify the Legal Office that the debt is delinquent.

The Legal Office after receiving the notification from FPD will, after consultation with FPD and CRD, determine whether to use another method of collection if the debt is still outstanding after 90 calendar days. In making the determination, consideration will be given to the amount of the debt, the costs of further debt collection, the amount collected to date and the probable success of pursuing further collection action.

The Legal Office will also notify the Chief Elected Official of each relevant unit of general local government, as established in CUIIC Section 15023(b), if the payment is not received within 90 calendar days after the date of the third invoice. When multiple units of general local government are designated as the SDA, each of those units shall be liable for the entire amount of the disallowance, regardless of the location or circumstances of the violation that caused the disallowance.

ACTION:

Bring this Directive to the attention of all affected staff and subrecipients.

INQUIRIES:

Please direct questions about this Directive to your Program Manager.

/S/ BILL BURKE
Assistant Deputy Director